

Notice of Allowability

Application N .

10/066,546

Examiner

Jack I. Berman

Applicant(s)

ELLSON ET AL.

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment and Terminal Disclaimer filed on September 8, 2003.
2. ☒ The allowed claim(s) is/are 1-38,41,42,44-50,54-65,69-74,76,126-134,145-159 and 162-179.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
(a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

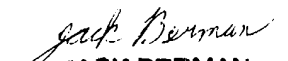
7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No. _____.
(b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
(c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- 1 ☐ Notice of References Cited (PTO-892)
3 ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
5 ☐ Information Disclosure Statements (PTO-1449), Paper No. _____.
7 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- 2 ☐ Notice of Informal Patent Application (PTO-152)
4 ☐ Interview Summary (PTO-413), Paper No. _____.
6 ☐ Examiner's Amendment/Comment
8 ☒ Examiner's Statement of Reasons for Allowance
9 ☐ Other


JACK BERMAN
PRIMARY EXAMINER

The following is an examiner's statement of reasons for allowance: While it would have been obvious to a person having ordinary skill in the art to use the method and device for preparing a plurality of analyte molecules for analysis claimed in US Patent No. 6,603,118 to prepare single molecules in the same way, the Terminal Disclaimer filed on September 8, 2003 overcomes any obvious-type double patenting rejection based on this patent. With respect to claim 145, this claim (and the claims depending from it) distinguish the invention from that disclosed by Williams et al. because, although Williams et al. does teach to apply focused radiation in a manner effective to eject a droplet of an analysis-enhancing fluid from a reservoir to deposit the droplet on any selected target zone on a target that comprises a contiguous surface on which are arranged a plurality of target zones, since Williams et al. goes on to say, at [0070], that "[t]he target may comprise, for example, an array of target zones, each zone having affixed to it a sample of the binding partner for which specific binding is sought to be identified", it is clear that the samples to which the droplets are directed are the materials affixed to noncontiguous sites on the target, not the contiguous surface of the target. Therefore Applicant is correct in the argument made in the remarks filed on September 8, 2003 that Williams et al. does not teach to direct the droplets to sites on a contiguous sample surface.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

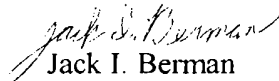
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack I. Berman whose telephone number is (703) 308-4849. The examiner can normally be reached on M-F (8:30-6:00) with every second Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Lee can be reached on (703) 308-4116. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.


Jack I. Berman
Primary Examiner
Art Unit 2881

jb
October 14, 2003